17C-2-101. Resolution designating survey area -- Request to adopt resolution.

(1) An agency board may begin the process of adopting an urban renewal project area plan by adopting a resolution that:

(a) designates an area located within the agency's boundaries as a survey area;

(b) contains a statement that the survey area requires study to determine whether:

(i) one or more urban renewal projects within the survey area are feasible; and

(ii) blight exists within the survey area; and

(c) contains a description or map of the boundaries of the survey area.

(2) (a) Any person or any group, association, corporation, or other entity may submit a written request to the board to adopt a resolution under Subsection (1).

(b) A request under Subsection (2)(a) may include plans showing the urban renewal proposed for an area within the agency's boundaries.

(c) The board may, in its sole discretion, grant or deny a request under Subsection (2)(a).

Renumbered and Amended by Chapter 359, 2006 General Session

17C-2-102. Process for adopting urban renewal project area plan -- Prerequisites -- Restrictions.

(1) (a) In order to adopt an urban renewal project area plan, after adopting a resolution under Subsection 17C-2-101(1) the agency shall:

(i) unless a finding of blight is based on a finding made under Subsection 17C-2-303(1)(b) relating to an inactive industrial site or inactive airport site:

(A) cause a blight study to be conducted within the survey area as provided in Section 17C-2-301;

(B) provide notice of a blight hearing as required under Part 5, Urban Renewal Notice Requirements; and

(C) hold a blight hearing as provided in Section 17C-2-302;

(ii) after the blight hearing has been held or, if no blight hearing is required under Subsection (1)(a)(i), after adopting a resolution under Subsection 17C-2-101(1), hold a board meeting at which the board shall:

(A) consider:

(I) the issue of blight and the evidence and information relating to the existence or nonexistence of blight; and

(II) whether adoption of one or more urban renewal project area plans should be pursued; and

(B) by resolution:

(I) make a finding regarding the existence of blight in the proposed urban renewal project area;

(II) select one or more project areas comprising part or all of the survey area; and

(III) authorize the preparation of a draft project area plan for each project area;

(iii) prepare a draft of a project area plan and conduct any examination, investigation, and negotiation regarding the project area plan that the agency considers

appropriate;

(iv) make the draft project area plan available to the public at the agency's offices during normal business hours;

(v) provide notice of the plan hearing as provided in Sections 17C-2-502 and 17C-2-504;

(vi) hold a public hearing on the draft project area plan and, at that public hearing:

(A) allow public comment on:

(I) the draft project area plan; and

(II) whether the draft project area plan should be revised, approved, or rejected; and

(B) receive all written and hear all oral objections to the draft project area plan;

(vii) before holding the plan hearing, provide an opportunity for the State Board of Education and each taxing entity that levies a tax on property within the proposed project area to consult with the agency regarding the draft project area plan;

(viii) if applicable, hold the election required under Subsection 17C-2-105(3);

(ix) after holding the plan hearing, at the same meeting or at a subsequent meeting consider:

(A) the oral and written objections to the draft project area plan and evidence and testimony for and against adoption of the draft project area plan; and

(B) whether to revise, approve, or reject the draft project area plan;

(x) approve the draft project area plan, with or without revisions, as the project area plan by a resolution that complies with Section 17C-2-106; and

(xi) submit the project area plan to the community legislative body for adoption.

(b) (i) If an agency makes a finding under Subsection (1)(a)(ii)(B) that blight exists in the proposed urban renewal project area, the agency may not adopt the project area plan until the taxing entity committee approves the finding of blight.

(ii) (A) A taxing entity committee may not disapprove an agency's finding of blight unless the committee demonstrates that the conditions the agency found to exist in the urban renewal project area that support the agency's finding of blight under Section 17C-2-303:

(I) do not exist; or

(II) do not constitute blight.

(B) (I) If the taxing entity committee questions or disputes the existence of some or all of the blight conditions that the agency found to exist in the urban renewal project area or that those conditions constitute blight, the taxing entity committee may hire a consultant, mutually agreed upon by the taxing entity committee and the agency, with the necessary expertise to assist the taxing entity committee to make a determination as to the existence of the questioned or disputed blight conditions.

(II) The agency shall pay the fees and expenses of each consultant hired under Subsection (1)(b)(ii)(B)(I).

(III) The findings of a consultant under this Subsection (1)(b)(ii)(B) shall be binding on the taxing entity committee and the agency.

(2) An agency may not propose a project area plan under Subsection (1) unless the community in which the proposed project area is located:

(a) has a planning commission; and

(b) has adopted a general plan under:

(i) if the community is a city or town, Title 10, Chapter 9a, Part 4, General Plan; or

(ii) if the community is a county, Title 17, Chapter 27a, Part 4, General Plan.

(3) (a) Subject to Subsection (3)(b), an agency board may not approve a project area plan more than one year after adoption of a resolution making a finding of blight under Subsection (1)(a)(ii)(B).

(b) If a project area plan is submitted to an election under Subsection 17C-2-105(3), the time between the plan hearing and the date of the election does not count for purposes of calculating the year period under Subsection (3)(a).

(4) (a) Except as provided in Subsection (4)(b), a draft project area plan may not be modified to add real property to the proposed project area unless the board holds a plan hearing to consider the addition and gives notice of the plan hearing as required under Sections 17C-2-502 and 17C-2-504.

(b) The notice and hearing requirements under Subsection (4)(a) do not apply to a draft project area plan being modified to add real property to the proposed project area if:

(i) the property is contiguous to the property already included in the proposed project area under the draft project area plan;

(ii) the record owner of the property consents to adding the real property to the proposed project area; and

(iii) the property is located within the survey area.

Amended by Chapter 125, 2008 General Session

17C-2-103. Urban renewal project area plan requirements.

(1) Each urban renewal project area plan and draft project area plan shall:

(a) describe the boundaries of the project area, subject to Section 17C-1-414, if applicable;

(b) contain a general statement of the land uses, layout of principal streets, population densities, and building intensities of the project area and how they will be affected by the urban renewal;

(c) state the standards that will guide the urban renewal;

(d) show how the purposes of this title will be attained by the urban renewal;

(e) be consistent with the general plan of the community in which the project area is located and show that the urban renewal will conform to the community's general plan;

(f) describe how the urban renewal will reduce or eliminate blight in the project area;

(g) describe any specific project or projects that are the object of the proposed urban renewal;

(h) identify how private developers, if any, will be selected to undertake the urban renewal and identify each private developer currently involved in the urban renewal process;

(i) state the reasons for the selection of the project area;

(j) describe the physical, social, and economic conditions existing in the project

area;

(k) describe any tax incentives offered private entities for facilities located in the project area;

(l) include the analysis described in Subsection (2);

(m) if any of the existing buildings or uses in the project area are included in or eligible for inclusion in the National Register of Historic Places or the State Register, state that the agency shall comply with Section 9-8-404 as though the agency were a state agency; and

(n) include other information that the agency determines to be necessary or advisable.

(2) Each analysis under Subsection (1)(l) shall consider:

(a) the benefit of any financial assistance or other public subsidy proposed to be provided by the agency, including:

(i) an evaluation of the reasonableness of the costs of the urban renewal;

(ii) efforts the agency or developer has made or will make to maximize private investment;

(iii) the rationale for use of tax increment, including an analysis of whether the proposed development might reasonably be expected to occur in the foreseeable future solely through private investment; and

(iv) an estimate of the total amount of tax increment that will be expended in undertaking urban renewal and the length of time for which it will be expended; and

(b) the anticipated public benefit to be derived from the urban renewal, including:

(i) the beneficial influences upon the tax base of the community;

(ii) the associated business and economic activity likely to be stimulated; and

(iii) whether adoption of the project area plan is necessary and appropriate to reduce or eliminate blight.

Amended by Chapter 254, 2006 General Session
Amended by Chapter 292, 2006 General Session
Renumbered and Amended by Chapter 359, 2006 General Session

17C-2-104. Existing and historic buildings and uses in an urban renewal project area.

If any of the existing buildings or uses in an urban renewal project area are included in or eligible for inclusion in the National Register of Historic Places or the State Register, the agency shall comply with Section 9-8-404 as though the agency were a state agency.

Amended by Chapter 292, 2006 General Session
Renumbered and Amended by Chapter 359, 2006 General Session

17C-2-105. Objections to urban renewal project area plan -- Owners' alternative project area plan -- Election if 40% of property owners object.

(1) At any time before the plan hearing, any person may file with the agency a written statement of objections to the draft urban renewal project area plan.

(2) If the record owners of property of a majority of the private real property included within the proposed urban renewal project area file a written petition before or at the plan hearing, proposing an alternative project area plan, the agency shall consider that proposed plan in conjunction with the project area plan proposed by the agency.

(3) (a) If the record property owners of at least 40% of the private land area within the proposed urban renewal project area object in writing to the draft project area plan before or at the plan hearing and do not withdraw their objections, an agency may not approve the project area plan until approved by voters within the boundaries of the agency in which the proposed project area is located at an election as provided in Subsection (3)(b).

(b) (i) Except as provided in this section, each election required under Subsection (3)(a) shall comply with Title 20A, Election Code.

(ii) An election under Subsection (3)(a) may be held on the same day and with the same election officials as an election held by the community in which the proposed project area is located.

(iii) If a majority of those voting on the proposed project area plan vote in favor of it, the project area plan shall be considered approved and the agency shall confirm the approval by resolution.

(4) If the record property owners of 2/3 of the private land area within the proposed project area object in writing to the draft project area plan before or at the plan hearing and do not withdraw their objections, the project area plan may not be adopted and the agency may not reconsider the project area plan for three years.

Renumbered and Amended by Chapter 359, 2006 General Session

17C-2-106. Board resolution approving urban renewal project area plan -- Requirements.

Each board resolution approving a draft urban renewal project area plan as the project area plan under Subsection 17C-2-102(1)(a) (x) shall contain:

(1) a legal description of the boundaries of the project area that is the subject of the project area plan;

(2) the agency's purposes and intent with respect to the project area;

(3) the project area plan incorporated by reference;

(4) a statement that the board previously made a finding of blight within the project area and the date of the board's finding of blight; and

(5) the board findings and determinations that:

(a) there is a need to effectuate a public purpose;

(b) there is a public benefit under the analysis described in Subsection 17C-2-103(2);

(c) it is economically sound and feasible to adopt and carry out the project area plan;

(d) the project area plan conforms to the community's general plan; and

(e) carrying out the project area plan will promote the public peace, health, safety, and welfare of the community in which the project area is located.

Amended by Chapter 364, 2007 General Session

17C-2-107. Urban renewal project area plan to be adopted by community legislative body.

(1) An urban renewal project area plan approved by board resolution under Section 17C-2-106 may not take effect until:

(a) it has been adopted by ordinance of the legislative body of the community that created the agency; and

(b) notice under Section 17C-2-108 is provided.

(2) Each ordinance under Subsection (1) shall:

(a) be adopted by the community legislative body after the board's approval of a resolution under Section 17C-2-106; and

(b) designate the approved project area plan as the official urban renewal plan of the project area.

Renumbered and Amended by Chapter 359, 2006 General Session

17C-2-108. Notice of urban renewal project area plan adoption -- Effective date of plan -- Contesting the formation of the plan.

(1) (a) Upon the community legislative body's adoption of an urban renewal project area plan, or an amendment to a project area plan under Section 17C-2-110, the legislative body shall provide notice as provided in Subsection (1)(b) by:

(i) (A) publishing or causing to be published a notice in a newspaper of general circulation within the agency's boundaries; or

(B) if there is no newspaper of general circulation within the agency's boundaries, causing a notice to be posted in at least three public places within the agency's boundaries; and

(ii) posting a notice on the Utah Public Notice Website described in Section 63F-1-701.

(b) Each notice under Subsection (1)(a) shall:

(i) set forth the community legislative body's ordinance adopting the project area plan or a summary of the ordinance; and

(ii) include a statement that the project area plan is available for general public inspection and the hours for inspection.

(2) The project area plan shall become effective on the date of:

(a) if notice was published under Subsection (1)(a), publication of the notice; or

(b) if notice was posted under Subsection (1)(a), posting of the notice.

(3) (a) For a period of 30 days after the effective date of the project area plan under Subsection (2), any person in interest may contest the project area plan or the procedure used to adopt the project area plan if the plan or procedure fails to comply with applicable statutory requirements.

(b) After the 30-day period under Subsection (3)(a) expires, no person may contest the project area plan or procedure used to adopt the project area plan for any cause.

(4) Upon adoption of the project area plan by the community's legislative body, the agency may carry out the project area plan.

(5) Each agency shall make the adopted project area plan available to the general public at its offices during normal business hours.

Amended by Chapter 279, 2010 General Session

17C-2-109. Agency required to transmit and record documents after adoption of an urban renewal project area plan.

Within 30 days after the community legislative body adopts, under Section 17C-2-107, an urban renewal project area plan, the agency shall:

(1) record with the recorder of the county in which the project area is located a document containing:

(a) a description of the land within the project area;

(b) a statement that the project area plan for the project area has been adopted; and

(c) the date of adoption;

(2) transmit a copy of the description of the land within the project area and an accurate map or plat indicating the boundaries of the project area to the Automated Geographic Reference Center created under Section 63F-1-506; and

(3) for a project area plan that provides for the payment of tax increment to the agency, transmit a copy of the description of the land within the project area, a copy of the community legislative body ordinance adopting the project area plan, and a map or plat indicating the boundaries of the project area to:

(a) the auditor, recorder, attorney, surveyor, and assessor of each county in which any part of the project area is located;

(b) the officer or officers performing the function of auditor or assessor for each taxing entity that does not use the county assessment roll or collect its taxes through the county;

(c) the legislative body or governing board of each taxing entity;

(d) the State Tax Commission; and

(e) the State Board of Education.

Renumbered and Amended by Chapter 359, 2006 General Session

17C-2-110. Amending an urban renewal project area plan.

(1) An adopted urban renewal project area plan may be amended as provided in this section.

(2) If an agency proposes to amend an adopted urban renewal project area plan to enlarge the project area:

(a) subject to Subsection (2)(e), the requirements under this part that apply to adopting a project area plan apply equally to the proposed amendment as if it were a proposed project area plan;

(b) for a pre-July 1, 1993 project area plan, the base year taxable value for the new area added to the project area shall be determined under Subsection 17C-1-102(6)(a)(i) using the effective date of the amended project area plan;

(c) for a post-June 30, 1993 project area plan:

(i) the base year taxable value for the new area added to the project area shall

be determined under Subsection 17C-1-102(6)(a)(ii) using the date of the taxing entity committee's consent referred to in Subsection (2)(c)(ii); and

(ii) the agency shall obtain the consent of the taxing entity committee before the agency may collect tax increment from the area added to the project area by the amendment;

(d) the agency shall make a finding regarding the existence of blight in the area proposed to be added to the project area by following the procedure set forth in Subsections 17C-2-102(1)(a)(i) and (ii); and

(e) the agency need not make a finding regarding the existence of blight in the project area as described in the original project area plan, if the agency made a finding of the existence of blight regarding that project area in connection with adoption of the original project area plan.

(3) If a proposed amendment does not propose to enlarge an urban renewal project area, an agency board may adopt a resolution approving an amendment to an adopted project area plan after:

(a) the agency gives notice, as provided in Section 17C-2-502, of the proposed amendment and of the public hearing required by Subsection (3)(b);

(b) the agency board holds a public hearing on the proposed amendment that meets the requirements of a plan hearing;

(c) the agency obtains the taxing entity committee's consent to the amendment, if the amendment proposes:

(i) to enlarge the area within the project area from which tax increment is collected;

(ii) to permit the agency to receive a greater percentage of tax increment or to receive tax increment for a longer period of time, or both, than allowed under the adopted project area plan; or

(iii) for an amendment to a project area plan that was adopted before April 1, 1983, to expand the area from which tax increment is collected to exceed 100 acres of private property; and

(d) the agency obtains the consent of the legislative body or governing board of each taxing entity affected, if the amendment proposes to permit the agency to receive, from less than all taxing entities, a greater percentage of tax increment or to receive tax increment for a longer period of time, or both, than allowed under the adopted project area plan.

(4) (a) An adopted urban renewal project area plan may be amended without complying with the notice and public hearing requirements of Subsections (2)(a) and (3)(a) and (b) and without obtaining taxing entity committee approval under Subsection (3)(c) if the amendment:

(i) makes a minor adjustment in the legal description of a project area boundary requested by a county assessor or county auditor to avoid inconsistent property boundary lines; or

(ii) subject to Subsection (4)(b), removes a parcel of real property from a project area because the agency determines that:

(A) the parcel is no longer blighted; or

(B) inclusion of the parcel is no longer necessary or desirable to the project area.

(b) An amendment removing a parcel of real property from a project area under Subsection (4)(a)(ii) may not be made without the consent of the record property owner of the parcel being removed.

(5) (a) An amendment approved by board resolution under this section may not take effect until adopted by ordinance of the legislative body of the community in which the project area that is the subject of the project area plan being amended is located.

(b) Upon a community legislative body passing an ordinance adopting an amendment to a project area plan, the agency whose project area plan was amended shall comply with the requirements of Sections 17C-2-108 and 17C-2-109 to the same extent as if the amendment were a project area plan.

Amended by Chapter 279, 2010 General Session

17C-2-201. Project area budget -- Requirements for adopting -- Contesting the budget or procedure -- Time limit.

(1) (a) If an agency anticipates funding all or a portion of a post-June 30, 1993 urban renewal project area plan with tax increment, the agency shall, subject to Section 17C-2-202, adopt a project area budget as provided in this part.

(b) An urban renewal project area budget adopted on or after March 30, 2009 shall specify:

(i) for a project area budget adopted on or after March 30, 2009:

(A) the number of tax years for which the agency will be allowed to receive tax increment from the project area; and

(B) the percentage of tax increment the agency is entitled to receive from the project area under the project area budget; and

(ii) for a project area budget adopted on or after March 30, 2013, unless approval is obtained under Subsection 17C-1-402(4)(b)(vi)(C), the maximum cumulative dollar amount of tax increment that the agency may receive from the project area under the project area budget.

(2) To adopt an urban renewal project area budget, the agency shall:

(a) prepare a draft of a project area budget;

(b) make a copy of the draft project area budget available to the public at the agency's offices during normal business hours;

(c) provide notice of the budget hearing as required by Part 5, Urban Renewal Notice Requirements;

(d) hold a public hearing on the draft project area budget and, at that public hearing, allow public comment on:

(i) the draft project area budget; and

(ii) whether the draft project area budget should be revised, adopted, or rejected;

(e) (i) if required under Subsection 17C-2-204(1), obtain the approval of the taxing entity committee on the draft project area budget or a revised version of the draft project area budget; or

(ii) if applicable, comply with the requirements of Subsection 17C-2-204(2);

(f) if approval of the taxing entity committee is required under Subsection (2)(e)(i), obtain a written certification, signed by an attorney licensed to practice law in

this state, stating that the taxing entity committee followed the appropriate procedures to approve the project area budget; and

(g) after the budget hearing, hold a board meeting in the same meeting as the public hearing or in a subsequent meeting to:

(i) consider comments made and information presented at the public hearing relating to the draft project area budget; and

(ii) adopt by resolution the draft project area budget, with any revisions, as the project area budget.

(3) (a) For a period of 30 days after the agency's adoption of the project area budget under Subsection (2)(g), any person in interest may contest the project area budget or the procedure used to adopt the project area budget if the budget or procedure fails to comply with applicable statutory requirements.

(b) After the 30-day period under Subsection (3)(a) expires, a person, for any cause, may not contest:

(i) the project area budget or procedure used by either the taxing entity committee or the agency to approve and adopt the project area budget;

(ii) a payment to the agency under the project area budget; or

(iii) the agency's use of tax increment under the project area budget.

Amended by Chapter 80, 2013 General Session

17C-2-202. Combined incremental value -- Restriction against adopting an urban renewal project area budget -- Taxing entity committee may waive restriction.

(1) Except as provided in Subsection (2), an agency may not adopt an urban renewal project area budget if, at the time the urban renewal project area budget is being considered, the combined incremental value for the agency exceeds 10% of the total taxable value of property within the agency's boundaries in the year that the urban renewal project area budget is being considered.

(2) (a) A taxing entity committee may waive the restrictions imposed by Subsection (1).

(b) Subsection (1) does not apply to an urban renewal project area budget if the agency's finding of blight in the project area to which the budget relates is based on a finding under Subsection 17C-2-303(1)(b).

Amended by Chapter 364, 2007 General Session

17C-2-203. Part of tax increment funds in urban renewal project area budget to be used for housing -- Waiver of requirement.

(1) (a) Except as provided in Subsection (1)(b), each urban renewal project area budget adopted on or after May 1, 2000 that provides for more than $100,000 of annual tax increment to be paid to the agency shall allocate at least 20% of the tax increment for housing as provided in Section 17C-1-412.

(b) The 20% requirement of Subsection (1)(a) may be waived in part or whole by the mutual consent of the loan fund board and the taxing entity committee if they determine that 20% of tax increment is more than is needed to address the

community's need for income targeted housing.

(2) An urban renewal project area budget not required under Subsection (1)(a) to allocate tax increment for housing may allocate 20% of tax increment payable to the agency over the life of the project area for housing as provided in Section 17C-1-412 if the project area budget is under a project area plan that is adopted on or after July 1, 1998.

Renumbered and Amended by Chapter 359, 2006 General Session

17C-2-204. Consent of taxing entity committee required for urban renewal project area budget -- Exception.

(1) (a) Except as provided in Subsection (1)(b) and subject to Subsection (2), each agency shall obtain the consent of the taxing entity committee for each urban renewal project area budget under a post-June 30, 1993 project area plan before the agency may collect any tax increment from the urban renewal project area.

(b) For an urban renewal project area budget adopted from July 1, 1998 through May 1, 2000 that allocates 20% or more of the tax increment for housing as provided in Section 17C-1-412, an agency:

(i) need not obtain the consent of the taxing entity committee for the project area budget; and

(ii) may not collect any tax increment from all or part of the project area until after:

(A) the loan fund board has certified the project area budget as complying with the requirements of Section 17C-1-412; and

(B) the agency board has approved and adopted the project area budget by a two-thirds vote.

(2) (a) Before a taxing entity committee may consent to an urban renewal project area budget adopted on or after May 1, 2000 that is required under Subsection 17C-2-203(1)(a) to allocate 20% of tax increment for housing, the agency shall:

(i) adopt a housing plan showing the uses for the housing funds; and

(ii) provide a copy of the housing plan to the taxing entity committee and the loan fund board.

(b) If an agency amends a housing plan prepared under Subsection (2)(a), the agency shall provide a copy of the amendment to the taxing entity committee and the loan fund board.

Renumbered and Amended by Chapter 359, 2006 General Session

17C-2-205. Filing a copy of the urban renewal project area budget.

Each agency adopting an urban renewal project area budget shall:

(1) within 30 days after adopting the project area budget, file a copy of the project area budget with the auditor of the county in which the project area is located, the State Tax Commission, the state auditor, the State Board of Education, and each taxing entity affected by the agency's collection of tax increment under the project area budget; and

(2) if the project area budget allocates tax increment for housing under Section

17C-1-412, file a copy of the project area budget with the loan fund board.

Renumbered and Amended by Chapter 359, 2006 General Session

17C-2-206. Amending an urban renewal project area budget.

(1) An agency may by resolution amend an urban renewal project area budget as provided in this section.

(2) To amend an adopted urban renewal project area budget, the agency shall:

(a) advertise and hold one public hearing on the proposed amendment as provided in Subsection (3);

(b) if approval of the taxing entity committee was required for adoption of the original project area budget, obtain the approval of the taxing entity committee to the same extent that the agency was required to obtain the consent of the taxing entity committee for the project area budget as originally adopted;

(c) if approval of the taxing entity committee is required under Subsection (2)(b), obtain a written certification, signed by an attorney licensed to practice law in this state, stating that the taxing entity committee followed the appropriate procedures to approve the project area budget; and

(d) adopt a resolution amending the project area budget.

(3) The public hearing required under Subsection (2)(a) shall be conducted according to the procedures and requirements of Subsections 17C-2-201(2)(c) and (d), except that if the amended project area budget proposes that the agency be paid a greater proportion of tax increment from a project area than was to be paid under the previous project area budget, the notice shall state the percentage paid under the previous project area budget and the percentage proposed under the amended project area budget.

(4) If a proposed amendment is not adopted, the agency shall continue to operate under the previously adopted project area budget without the proposed amendment.

(5) (a) A person may contest the agency's adoption of a budget amendment within 30 days after the day on which the agency adopts the amendment.

(b) A person who fails to contest a budget amendment under Subsection (5)(a):

(i) forfeits any claim against an agency's adoption of the amendment; and

(ii) may not contest:

(A) a payment to the agency under the budget amendment; or

(B) an agency's use of a tax increment under the budget amendment.

Amended by Chapter 43, 2011 General Session

17C-2-207. Extending collection of tax increment in an urban renewal project area budget.

(1) An amendment or extension approved by a taxing entity or taxing entity committee before May 10, 2011, is not subject to this section.

(2) (a) An agency's collection of tax increment under an adopted urban renewal project area budget may be extended by:

(i) following the project area budget amendment procedures outlined in Section

17C-2-206; or

(ii) following the procedures outlined in this section.

(b) The base taxable value for an urban renewal project area budget may not be altered as a result of an extension under this section unless otherwise expressly provided for in an interlocal agreement adopted in accordance with Subsection (3)(a).

(3) To extend under this section the agency's collection of tax increment from a taxing entity under a previously approved project area budget, the agency shall:

(a) obtain the approval of the taxing entity through an interlocal agreement;

(b) (i) hold a public hearing on the proposed extension in accordance with Subsection 17C-2-201(2)(d) in the same manner as required for a draft project area budget; and

(ii) provide notice of the hearing:

(A) as required by Part 5, Urban Renewal Notice Requirements; and

(B) including the proposed period of extension of the project area budget; and

(c) after obtaining the approval of the taxing entity in accordance with Subsection (3)(a), at or after the public hearing, adopt a resolution approving the extension.

(4) After the expiration of a project area budget, an agency may continue to receive tax increment from those taxing entities that have agreed to an extension through an interlocal agreement in accordance with Subsection (3)(a).

(5) (a) A person may contest the agency's adoption of a budget extension within 30 days after the day on which the agency adopts the resolution providing for the extension.

(b) A person who fails to contest a budget extension under Subsection (5)(a):

(i) shall forfeit any claim against the agency's adoption of the extension; and

(ii) may not contest:

(A) a payment to the agency under the budget, as extended; or

(B) an agency's use of tax increment under the budget, as extended.

Enacted by Chapter 43, 2011 General Session

17C-2-301. Blight study -- Requirements -- Deadline.

(1) Each blight study required under Subsection 17C-2-102(1)(a)(i)(A) shall:

(a) undertake a parcel by parcel survey of the survey area;

(b) provide data so the board and taxing entity committee may determine:

(i) whether the conditions described in Subsection 17C-2-303(1):

(A) exist in part or all of the survey area; and

(B) qualify an area within the survey area as a project area; and

(ii) whether the survey area contains all or part of a superfund site, an inactive industrial site, or inactive airport site;

(c) include a written report setting forth:

(i) the conclusions reached;

(ii) any recommended area within the survey area qualifying as a project area; and

(iii) any other information requested by the agency to determine whether an urban renewal project area is feasible; and

(d) be completed within one year after the adoption of the survey area resolution.

(2) (a) If a blight study is not completed within one year after the adoption of the resolution under Subsection 17C-2-101(1) designating a survey area, the agency may not approve an urban renewal project area plan based on that blight study unless it first adopts a new resolution under Subsection 17C-2-101(1).

(b) A new resolution under Subsection (2)(a) shall in all respects be considered to be a resolution under Subsection 17C-2-101(1) adopted for the first time, except that any actions taken toward completing a blight study under the resolution that the new resolution replaces shall be considered to have been taken under the new resolution.

Amended by Chapter 125, 2008 General Session

17C-2-302. Blight hearing -- Owners may review evidence of blight.

(1) In each hearing required under Subsection 17C-2-102(1)(a)(i)(C), the agency shall:

(a) permit all evidence of the existence or nonexistence of blight within the proposed urban renewal project area to be presented; and

(b) permit each record owner of property located within the proposed urban renewal project area or the record property owner's representative the opportunity to:

(i) examine and cross-examine witnesses providing evidence of the existence or nonexistence of blight; and

(ii) present evidence and testimony, including expert testimony, concerning the existence or nonexistence of blight.

(2) The agency shall allow record owners of property located within a proposed urban renewal project area the opportunity, for at least 30 days before the hearing, to review the evidence of blight compiled by the agency or by the person or firm conducting the blight study for the agency, including any expert report.

Amended by Chapter 364, 2007 General Session

17C-2-303. Conditions on board determination of blight -- Conditions of blight caused by the developer.

(1) An agency board may not make a finding of blight in a resolution under Subsection 17C-2-102(1)(a)(ii)(B) unless the board finds that:

(a) (i) the proposed project area consists predominantly of nongreenfield parcels;

(ii) the proposed project area is currently zoned for urban purposes and generally served by utilities;

(iii) at least 50% of the parcels within the proposed project area contain nonagricultural or nonaccessory buildings or improvements used or intended for residential, commercial, industrial, or other urban purposes, or any combination of those uses;

(iv) the present condition or use of the proposed project area substantially impairs the sound growth of the municipality, retards the provision of housing accommodations, or constitutes an economic liability or is detrimental to the public

health, safety, or welfare, as shown by the existence within the proposed project area of at least four of the following factors:

(A) one of the following, although sometimes interspersed with well maintained buildings and infrastructure:

(I) substantial physical dilapidation, deterioration, or defective construction of buildings or infrastructure; or

(II) significant noncompliance with current building code, safety code, health code, or fire code requirements or local ordinances;

(B) unsanitary or unsafe conditions in the proposed project area that threaten the health, safety, or welfare of the community;

(C) environmental hazards, as defined in state or federal law, that require remediation as a condition for current or future use and development;

(D) excessive vacancy, abandoned buildings, or vacant lots within an area zoned for urban use and served by utilities;

(E) abandoned or outdated facilities that pose a threat to public health, safety, or welfare;

(F) criminal activity in the project area, higher than that of comparable nonblighted areas in the municipality or county; and

(G) defective or unusual conditions of title rendering the title nonmarketable; and

(v) (A) at least 50% of the privately-owned parcels within the proposed project area are affected by at least one of the factors, but not necessarily the same factor, listed in Subsection (1)(a)(iv); and

(B) the affected parcels comprise at least 66% of the privately-owned acreage of the proposed project area; or

(b) the proposed project area includes some or all of a superfund site, inactive industrial site, or inactive airport site.

(2) No single parcel comprising 10% or more of the acreage of the proposed project area may be counted as satisfying Subsection (1)(a)(iii) or (iv) unless at least 50% of the area of that parcel is occupied by buildings or improvements.

(3) (a) For purposes of Subsection (1), if a developer involved in the urban renewal project has caused a condition listed in Subsection (1)(a)(iv) within the proposed project area, that condition may not be used in the determination of blight.

(b) Subsection (3)(a) does not apply to a condition that was caused by an owner or tenant who becomes a developer.

Amended by Chapter 43, 2011 General Session

17C-2-304. Challenging a finding of blight -- Time limit -- De novo review.

(1) If the board makes a finding of blight under Subsection 17C-2-102(1)(a)(ii)(B) and that finding is approved by resolution adopted by the taxing entity committee, a record owner of property located within the proposed urban renewal project area may challenge the finding by filing an action with the district court for the county in which the property is located.

(2) Each challenge under Subsection (1) shall be filed within 30 days after the taxing entity committee approves the board's finding of blight.

(3) In each action under this section, the district court shall review the finding of

blight under the standards of review provided in Subsection 10-9a-801(3).

Amended by Chapter 364, 2007 General Session

17C-2-401. Combining hearings.

A board may combine any combination of a blight hearing, a plan hearing, and a budget hearing.

Renumbered and Amended by Chapter 359, 2006 General Session

17C-2-402. Continuing a hearing.

Subject to Section 17C-2-403, the board may continue from time to time a:

(1) blight hearing;

(2) plan hearing;

(3) budget hearing; or

(4) combined hearing under Section 17C-2-401.

Renumbered and Amended by Chapter 359, 2006 General Session

17C-2-403. Notice required for continued hearing.

The board shall give notice of a hearing continued under Section 17C-2-402 by announcing at the hearing:

(1) the date, time, and place the hearing will be resumed; or

(2) that it is being continued to a later time and causing a notice of the continued hearing to be:

(a) (i) published once in a newspaper of general circulation within the agency boundaries at least seven days before the hearing is scheduled to resume; or

(ii) if there is no newspaper of general circulation, posted in at least three conspicuous places within the boundaries of the agency in which the project area or proposed project area is located; and

(b) published on the Utah Public Notice Website created in Section 63F-1-701, at least seven days before the hearing is schedule to resume.

Amended by Chapter 90, 2010 General Session

17C-2-501. Agency to provide notice of hearings.

(1) Each agency shall provide notice, as provided in this part, of each:

(a) blight hearing;

(b) plan hearing; and

(c) budget hearing.

(2) The notice required under Subsection (1) for any of the hearings listed in that subsection may be combined with the notice required for any of the other hearings if the hearings are combined under Section 17C-2-401.

Renumbered and Amended by Chapter 359, 2006 General Session

17C-2-502. Requirements for notice provided by agency.

(1) The notice required by Section 17C-2-501 shall be given by:

(a) (i) publishing one notice, excluding the map referred to in Subsection (3)(b), in a newspaper of general circulation within the county in which the project area or proposed project area is located, at least 14 days before the hearing;

(ii) if there is no newspaper of general circulation, posting notice at least 14 days before the day of the hearing in at least three conspicuous places within the county in which the project area or proposed project area is located; or

(iii) posting notice, excluding the map described in Subsection (3)(b), at least 14 days before the day on which the hearing is held on:

(A) the Utah Public Notice Website described in Section 63F-1-701; and

(B) the public website of a community located within the boundaries of the project area; and

(b) at least 30 days before the hearing:

(i) mailing notice to each record owner of property located within the project area or proposed project area; and

(ii) mailing notice to:

(A) the State Tax Commission;

(B) the assessor and auditor of the county in which the project area or proposed project area is located; and

(C) (I) each member of the taxing entity committee; or

(II) if a taxing entity committee has not yet been formed, the State Board of Education and the legislative body or governing board of each taxing entity.

(2) The mailing of the notice to record property owners required under Subsection (1)(b)(i) shall be conclusively considered to have been properly completed if:

(a) the agency mails the notice to the property owners as shown in the records, including an electronic database, of the county recorder's office and at the addresses shown in those records; and

(b) the county recorder's office records used by the agency in identifying owners to whom the notice is mailed and their addresses were obtained or accessed from the county recorder's office no earlier than 30 days before the mailing.

(3) The agency shall include in each notice required under Section 17C-2-501:

(a) (i) a specific description of the boundaries of the project area or proposed project area; or

(ii) (A) a mailing address or telephone number where a person may request that a copy of the description be sent at no cost to the person by mail or facsimile transmission; and

(B) if the agency has an Internet website, an Internet address where a person may gain access to an electronic, printable copy of the description;

(b) a map of the boundaries of the project area or proposed project area;

(c) an explanation of the purpose of the hearing; and

(d) a statement of the date, time, and location of the hearing.

(4) The agency shall include in each notice under Subsection (1)(b)(ii):

(a) a statement that property tax revenues resulting from an increase in valuation of property within the project area or proposed project area will be paid to the

agency for urban renewal purposes rather than to the taxing entity to which the tax revenues would otherwise have been paid if:

(i) the taxing entity committee consents to the project area budget; and

(ii) the project area plan provides for the agency to receive tax increment; and

(b) an invitation to the recipient of the notice to submit to the agency comments concerning the subject matter of the hearing before the date of the hearing.

(5) An agency may include in a notice under Subsection (1) any other information the agency considers necessary or advisable, including the public purpose served by the project and any future tax benefits expected to result from the project.

Amended by Chapter 279, 2010 General Session

17C-2-503. Additional requirements for notice of a blight hearing.

Each notice under Section 17C-2-502 for a blight hearing shall include:

(1) a statement that:

(a) an urban renewal project area is being proposed;

(b) the proposed urban renewal project area may be declared to have blight;

(c) the record owner of property within the proposed project area has the right to present evidence at the blight hearing contesting the existence of blight;

(d) except for a hearing continued under Section 17C-2-402, the agency will notify the record property owners referred to in Subsection 17C-2-502(1)(b)(i) of each additional public hearing held by the agency concerning the urban renewal project prior to the adoption of the urban renewal project area plan; and

(e) persons contesting the existence of blight in the proposed urban renewal project area may appear before the agency board and show cause why the proposed urban renewal project area should not be designated as an urban renewal project area; and

(2) if the agency anticipates acquiring property in an urban renewal project area by eminent domain, a clear and plain statement that:

(a) the project area plan may require the agency to use eminent domain; and

(b) the proposed use of eminent domain will be discussed at the blight hearing.

Amended by Chapter 379, 2007 General Session

17C-2-504. Additional requirements for notice of a plan hearing.

Each notice under Section 17C-2-502 of a plan hearing shall include:

(1) a statement that any person objecting to the draft project area plan or contesting the regularity of any of the proceedings to adopt it may appear before the agency board at the hearing to show cause why the draft project area plan should not be adopted; and

(2) a statement that the proposed project area plan is available for inspection at the agency offices.

Renumbered and Amended by Chapter 359, 2006 General Session

17C-2-505. Additional requirements for notice of a budget hearing.

Each notice under Section 17C-2-502 of a budget hearing shall contain:

(1) the following statement:

"The (name of agency) has requested $_____ in property tax revenues that will be generated by development within the (name of project area) to fund a portion of project costs within the (name of project area). These property tax revenues will be used for the following: (list major budget categories and amounts). These property taxes will be taxes levied by the following governmental entities, and, assuming current tax rates, the taxes paid to the agency for this project area from each taxing entity will be as follows: (list each taxing entity levying taxes and the amount of total taxes that would be paid from each taxing entity). All of the property taxes to be paid to the agency for the development in the project area are taxes that will be generated only if the project area is developed.

All concerned citizens are invited to attend the project area budget hearing scheduled for (date, time, and place of hearing). A copy of the (name of project area) project area budget is available at the offices of (name of agency and office address).";

and

(2) other information that the agency considers appropriate.

Renumbered and Amended by Chapter 359, 2006 General Session

17C-2-601. Use of eminent domain in an urban renewal project area -- Conditions -- Acquiring single family owner occupied residential property or commercial property -- Acquiring property already devoted to a public use -- Relocation assistance requirement.

(1) Subject to Section 17C-2-602, an agency may use eminent domain to acquire property:

(a) within an urban renewal project area if:

(i) the agency board makes a finding of blight under Part 3, Blight Determination in Urban Renewal Project Areas;

(ii) the urban renewal project area plan provides for the use of eminent domain; and

(iii) the agency commences the acquisition of the property within five years after the effective date of the urban renewal project area plan; or

(b) within a project area established after December 31, 2001 but before April 30, 2007 if:

(i) the agency board made a finding of blight with respect to the project area as provided under the law in effect at the time of the finding;

(ii) the project area plan provides for the use of eminent domain; and

(iii) the agency commences the acquisition of the property before January 1, 2010.

(2) (a) As used in this Subsection (2):

(i) "Commercial property" means a property used, in whole or in part, by the owner or possessor of the property for a commercial, industrial, retail, or other business purpose, regardless of the identity of the property owner.

(ii) "Owner occupied property" means private real property:

(A) whose use is single-family residential or commercial; and

(B) that is occupied by the owner of the property.

(iii) "Relevant area" means:

(A) except as provided in Subsection (2)(a)(iii)(B), the project area; or

(B) the area included within a phase of a project under a project area plan if the phase and the area included within the phase are described in the project area plan.

(b) For purposes of each provision of this Subsection (2) relating to the submission of a petition by the owners of property, a parcel of real property is included in the calculation of the applicable percentage if the petition is signed by:

(i) except as provided in Subsection (2)(b)(ii), owners representing a majority ownership interest in that parcel; or

(ii) if the parcel is owned by joint tenants or tenants by the entirety, 50% of the number of owners of that parcel.

(c) An agency may not acquire by eminent domain single-family residential owner occupied property unless:

(i) the owner consents; or

(ii) (A) a written petition requesting the agency to use eminent domain to acquire the property is submitted by the owners of at least 80% of the owner occupied property within the relevant area representing at least 70% of the value of owner occupied property within the relevant area; and

(B) 2/3 of all agency board members vote in favor of using eminent domain to acquire the property.

(d) An agency may not acquire commercial property by eminent domain unless:

(i) the owner consents; or

(ii) (A) a written petition requesting the agency to use eminent domain to acquire the property is submitted by the owners of at least 75% of the commercial property within the relevant area representing at least 60% of the value of commercial property within the relevant area; and

(B) 2/3 of all agency board members vote in favor of using eminent domain to acquire the property.

(3) An agency may not acquire any real property on which an existing building is to be continued on its present site and in its present form and use unless:

(a) the owner consents; or

(b) (i) the building requires structural alteration, improvement, modernization, or rehabilitation;

(ii) the site or lot on which the building is situated requires modification in size, shape, or use; or

(iii) (A) it is necessary to impose upon the property any of the standards, restrictions, and controls of the project area plan; and

(B) the owner fails or refuses to agree to participate in the project area plan.

(4) (a) Subject to Subsection (4)(b), an agency may acquire by eminent domain property that is already devoted to a public use and located in:

(i) an urban renewal project area; or

(ii) a project area described in Subsection (1)(b).

(b) An agency may not acquire property of a public entity under Subsection (4)(a) without the public entity's consent.

(5) Each agency that acquires property by eminent domain shall comply with

Title 57, Chapter 12, Utah Relocation Assistance Act.

Amended by Chapter 235, 2012 General Session

17C-2-602. Prerequisites to the acquisition of property by eminent domain -- Civil action authorized -- Record of good faith negotiations to be retained.

(1) Before an agency may acquire property by eminent domain, the agency shall:

(a) negotiate in good faith with the affected record property owner;

(b) provide to each affected record property owner a written declaration that includes:

(i) an explanation of the eminent domain process and the reasons for using it, including:

(A) the need for the agency to obtain an independent appraisal that indicates the fair market value of the property and how the fair market value was determined;

(B) a statement that the agency may adopt a resolution authorizing the agency to make an offer to the record property owner to purchase the property for the fair market value amount determined by the appraiser and that, if the offer is rejected, the agency has the right to acquire the property through an eminent domain proceeding; and

(C) a statement that the agency will prepare an offer that will include the price the agency is offering for the property, an explanation of how the agency determined the price being offered, the legal description of the property, conditions of the offer, and the time at which the offer will expire;

(ii) an explanation of the record property owner's relocation rights under Title 57, Chapter 12, Utah Relocation Assistance Act, and how to receive relocation assistance; and

(iii) a statement that the owner has the right to receive just compensation and an explanation of how to obtain it; and

(c) provide to the affected record property owner or the owner's designated representative a notice that is printed in a type size of at least ten-point type that contains:

(i) a description of the property to be acquired;

(ii) the name of the agency acquiring the property and the agency's contact person and telephone number; and

(iii) a copy of Title 57, Chapter 12, Utah Relocation Assistance Act.

(2) A person may bring a civil action against an agency for a violation of Subsection (1)(b) that results in damage to that person.

(3) Each agency shall keep a record and evidence of the good faith negotiations required under Subsection (1)(a) and retain the record and evidence as provided in:

(a) Title 63G, Chapter 2, Government Records Access and Management Act; or

(b) an ordinance or policy that the agency had adopted under Section 63G-2-701.

(4) A record property owner whose property is being taken by an agency through the exercise of eminent domain may elect to receive for the real property being taken:

(a) fair market value; or
(b) replacement property under Section 57-12-7.

Amended by Chapter 382, 2008 General Session

17C-2-603. Court award for court costs and attorney fees, relocation expenses, and damage to fixtures or personal property.

If a property owner brings an action in district court contesting an agency's exercise of eminent domain against that owner's property, the court may:

(1) award court costs and a reasonable attorney fee, as determined by the court, to the owner, if the amount of the court or jury award for the property exceeds the amount offered by the agency;

(2) award a reasonable sum, as determined by the court or jury, as compensation for any costs and expenses of relocating an owner who occupied the acquired property, a party conducting a business on the acquired property, or a person displaced from the property, as permitted by Title 57, Chapter 12, Utah Relocation Assistance Act; and

(3) award an amount, as determined by the court or jury, to compensate for any fixtures or personal property that is:

(a) owned by the owner of the acquired property or by a person conducting a business on the acquired property; and

(b) damaged as a result of the acquisition or relocation.

Enacted by Chapter 379, 2007 General Session